

MEETING NOTICE

A meeting of the
Bayside Local Planning Panel
will be held in the Committee Room, Botany Town Hall
Corner of Edward Street and Botany Road, Botany
on **Tuesday 11 March 2025 at 6:00 PM**

ON-SITE INSPECTIONS

On-site inspections are undertaken beforehand.

AGENDA

1 ACKNOWLEDGEMENT OF COUNTRY

Bayside Council acknowledges traditional custodians: the Gadigal and Bidjigal people of the Eora nation, and pays respects to Elders past, present and emerging. The people of the Eora nation, their spirits and ancestors will always remain with our waterways and the land, our Mother Earth.

2 APOLOGIES

3 DISCLOSURES OF INTEREST

4 MINUTES OF PREVIOUS MEETINGS

Nil

5 REPORTS – PLANNING PROPOSALS

Nil

6 REPORTS – DEVELOPMENT APPLICATIONS

6.1 MDA-2024/198 - 25 - 29 Daphne Street BOTANY - Section 4.56
Modification2

Members of the public, who have requested to speak at the meeting, will be invited to address the Panel by the Chairperson.

The meeting will be video recorded and live streamed to the community via Youtube.

Meredith Wallace
General Manager

Bayside Local Planning Panel

11/03/2025

Item No	6.1
Application No	MDA-2024/198
Property	25 - 29 Daphne Street BOTANY
Application Type	Section 4.56 Modification
Proposal	Modification to DA-2017/11063 to remove conditions 9(h) and 20 regarding basement access and flooding
Owner	Rye 182 Pty Ltd
Applicant	Rye 182 Pty Ltd
Ward	Ward 1
Lodgement Date	18/12/2024
No. of Submissions	32 unique submissions
Cost of Development	\$Nil
Reason Criteria	Contentious development
Report by	Peter Barber, Director City Futures

Officer Recommendation

- 1 That the Bayside Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to S4.56 of the *Environmental Planning and Assessment Act 1979* be satisfied that the proposed modification:
 - a) is substantially the same development as the development for which consent was originally granted and before that consent was modified;
 - b) has been notified in accordance with the Regulations and Bayside Development Control Plan 2022 and the submissions made have been considered;
 - c) is acceptable after considering reasons for the consent sought to be modified;
 - d) is acceptable having regard to the relevant matters in Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

- 2 That the Bayside Local Planning Panel, exercising the functions of Council as the consent authority pursuant to s4.16 and s4.17 of the *Environmental Planning and Assessment Act 1979*, determine Development Application MDA-2024/198 for Modification to DA-2017/1063 to remove conditions 9(h) and 20 regarding basement access and flooding at 25 Daphne Street, BOTANY NSW 2019, 27 Daphne Street, BOTANY NSW 2019, 29 Daphne Street, BOTANY NSW 2019 by GRANTING CONSENT to modify the original consent in the following manner:
 - A. By amending conditions 1, 59 and 70;
 - B. By adding new conditions 20A, 20B and 20C; and
 - C. By deleting conditions 9 (h) and 20.

- 3 That the submitters are to be notified of the Panel's decision.

Location Plan



Attachments

- 1 [↓](#) Planning Assessment Report
- 2 [↓](#) Draft conditions

BAYSIDE COUNCIL

Planning Assessment Report



Application Details

Application Number:	MDA-2024/198
Date of Receipt:	18 December 2024
Property:	25 Daphne Street, BOTANY NSW 2019, 27 Daphne Street, BOTANY NSW 2019, 29 Daphne Street, BOTANY NSW 2019 Lot 700 DP 1263411, Lot 2 DP 227578 & Lot 3 DP 227578
Owner:	Rye 182 Pty Ltd
Applicant:	Rye 182 Pty. Ltd.
Proposal:	Modification to DA-2017/11063 to remove conditions 9(h) and 20 regarding basement access and flooding
Recommendation:	Approval
No. of submissions:	32 unique submissions
Author:	Ivy Zhang
Date of Report:	18 February 2025

Key Issues

There are no key issues identified in the assessment of the Modification Application.

The Modification Application ("the proposal") has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* ("the Act") and *Environmental Planning and Assessment Regulation 2021* ("the Regulation") and is recommended for approval, subject to conditions of consent.

The officers involved in writing and authorising this report declare, to the best of their knowledge, that they have no interest, pecuniary or otherwise, in this application or persons associated with it and have provided an impartial assessment.

Recommendation

1. That the Bayside Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to S4.56 of the *Environmental Planning and Assessment Act 1979* be satisfied that the proposed modification:
 - a) is substantially the same development as the development for which consent was originally granted and before that consent was modified;
 - b) has been notified in accordance with the Regulations and Bayside Development Control Plan 2022 and the submissions made have been considered;
 - c) is acceptable after considering reasons for the consent sought to be modified;
 - d) is acceptable having regard to the relevant matters in Section 4.15 of the *Environmental Planning and Assessment Act 1979*.
2. That the Bayside Local Planning Panel, exercising the functions of Council as the consent authority pursuant to s4.16 and s4.17 of the *Environmental Planning and Assessment Act 1979*, determine Development Application MDA-2024/198 for Modification to DA-2017/1063 to remove conditions 9(h) and 20 regarding basement access and flooding at 25 Daphne Street, BOTANY NSW 2019, 27 Daphne Street, BOTANY NSW 2019, 29 Daphne Street, BOTANY NSW 2019 by GRANTING CONSENT to modify the original consent in the following manner:
 - A. By amending conditions 1, 59 and 70;
 - B. By adding new conditions 20A, 20B and 20C; and
 - C. By deleting conditions 9 (h) and 20.
3. That the submitters be notified of the Panel's decision.

Background

History

The following applications have previously been considered by Council in relation to the subject site:

- 13 April 2018 - DA-2017/1063 – Demolition of the existing industrial/warehouse buildings and associated structures on site, and the construction of a 66 room boarding house and associated structures was approved as deferred commencement by NSW Land & Environment Court.
- 6 April 2020 - DA-2017/1063 – Operational Consent was granted.

The history relevant to the subject application is summarised as follows:

- 13 April 2018 – The subject DA which is sought to be modified was approved as deferred commencement on by the Land and Environment Court.
- 6 April 2020 – Operational Consent for the subject DA was granted.
- There have been nil prior modifications approved related to this DA.
- The subject Modification Application was lodged with Council on 18 December 2024.
- 17 January 2025 – The application was placed on public notification until 3 February 2025.
- 6 February 2025 – Site inspection was carried out.

Proposal

The application seeks consent to modify the approved development DA-2017/1063 at 25 Daphne Street, BOTANY NSW 2019, 27 Daphne Street, BOTANY NSW 2019, 29 Daphne Street, BOTANY NSW 2019 by removing conditions 9(h) and 20, which read as follows:

9(h) - Minimum vertical clearance of 4.5 metres shall be provided to the internal driveway to access the basement level.

20 - Prior to the issue of a construction certificate, details are to be submitted to the satisfaction of Council demonstrating:

a) a system to be added to the lift with flood smart controls so that if floodwaters have entered the basement, the lift does not descend into the floodwater. The system is to be certified by a suitably qualified engineer as capable of meeting this condition. The system is to be noted on the construction certificate plans and maintained for the life of the development;

b) construction certificate plans and details regarding the flood gates in accordance with the information submitted to Council on 13 December 2017 as follows:

Self Closing Flood Door Stair C5 Layout and Details Drawing No. 2017-FS340-C02	Flooding Solutions Advisory Group	Dated: 21 July 2017
Self Closing Flood Door Details	Flooding Solutions Advisory Group	Undated
SCFB 300 x 3000	Michiel Van den Noort	15 December 2016

Specifically, regarding Condition 9(H), the required height clearance of 4.5m was imposed in error. In relation to Condition 20, a driveway crest has been proposed as alternative flood management measure, thereby eliminating the need for a floodgate.

Site Location and Context

The subject site is legally identified as Lot 700 DP 1263411, Lot 2 DP 227578 and Lot 3 DP 227578 and is known as 25, 27 & 29 Daphne Street Botany. The site is generally rectangular in shape and has a street frontage to Daphne Street of 37.185 metres, a rear southern boundary of 37.603 metres, a western side boundary of 41.023 metres, and an eastern side boundary of 40.237 metres. The site has sole frontage to Daphne Street. The total site area is 1,505.8sqm. 3.5. The site is generally flat with a gradual fall in an east-westerly direction and cross fall to the south-western corner.

The site is currently occupied by dilapidated part one part two storey warehouse buildings with at grade parking at the street frontage and service access from a right of way. The subject site is located on the southern side of Daphne Street between Rose Street to the west, Ivy Street to the east, and Bay Street to south.

Adjoining development to the sides includes multi-dwelling housing comprising 13 units at 2A Rose Street and a two-storey industrial building at 31 Daphne Street. There is a mix of

single to three storey residential and industrial buildings within close proximity to the subject property.

The site contains one tree on the front yard and three (3) street trees at the front of the subject site.

The site is impacted by aircraft noise contours 25 and 30 and flooding. The site is located within zone of High Pressure Gas Pipeline.

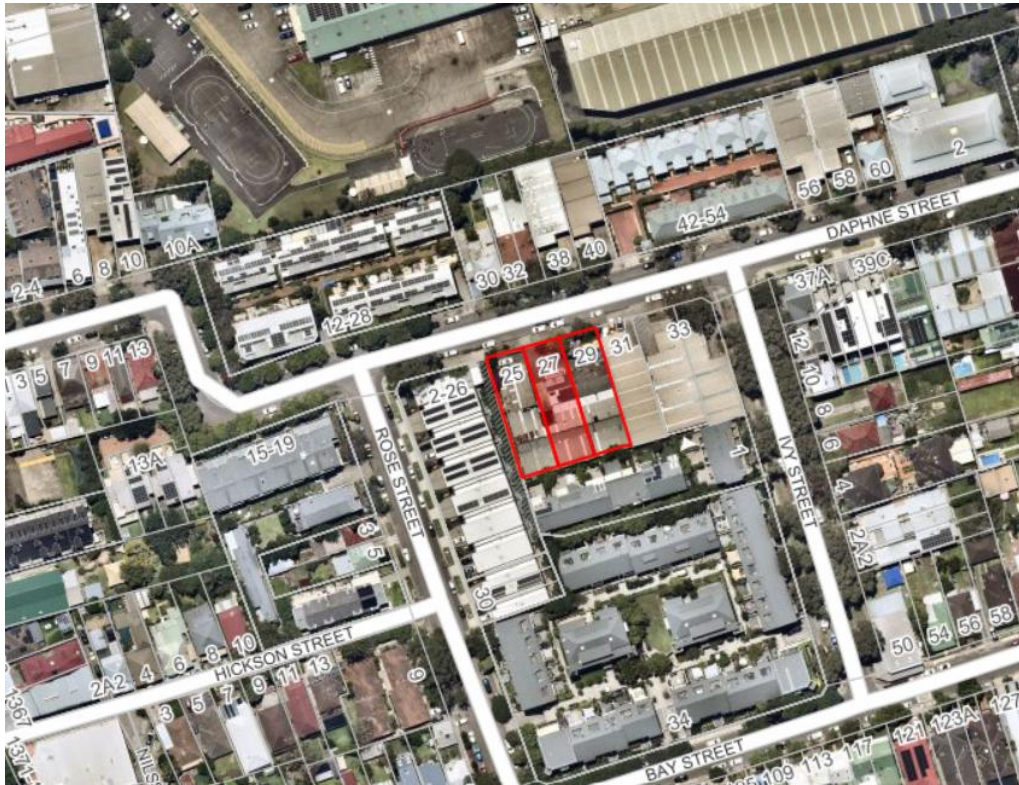


Figure 1. Aerial view of the subject site and its surroundings

Statutory Considerations

Environmental Planning and Assessment Act, 1979

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979* ("the Act").

S4.56 - Modification of consents granted by the Court

S4.56 – Modification by consent authorities of consents granted by the Court

The following quotes the provision of this Section of the Act, including a response to each:

The Section 4.56 of the Act states:

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the Court and subject to and in accordance with the regulations, modify the development consent if -

- a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*

Comment: The proposal remains as previously approved, namely demolition of the existing industrial/warehouse buildings and associated structures on site, and the construction of a 66 room boarding house and associated structures. The proposed modifications relate to height clearance (condition 9h) and flood gate only (condition 20) and will not change the land use or substantially alter the nature of the development.

9(h) - Minimum vertical clearance of 4.5 metres shall be provided to the internal driveway to access the basement level.

Condition 9(h) requires a minimum vertical clearance of 4.5m to the driveway to the basement level so that Council's Waste Collection Vehicle can access the basement level. This requirement is in contradiction of Condition 82 which specifically addresses street collection as follows:

82. All waste and recycling containers shall be stored in a designated waste storage area. The waste containers shall not be over filled and the lids kept closed at all times except when material is being put in them. The owner/ live-in caretaker shall be responsible for the following:

- a) Where waste and recycling containers need to be moved to the street;*
- b) Movement of the waste and recycling containers to the footpath for collections, and the return of waste and recycling containers to the waste storage area;*
- c) Refuse containers are to be returned to the waste storage area on the same day as the refuse is collected;*
- d) Refuse containers are not to be left on the street for longer than 24 hours;*
- e) Cleaning and maintaining the waste storage area, any drainage installations and waste collection containers; and*
- f) Providing and maintaining signage and information to uses to encourage recycling.*

The kerbside collection arrangement has been further confirmed in the following reference documents in the Notice of Operational Consent issued on 6 April 2020, including Plan of Management prepared by Parker Logan Property and dated 10 April 2017, Waste Management Plan prepared by Parker Logan Property and received by Council 27 April 2017 and Traffic and Parking Impact Assessment prepared by Hemanote Consultants and dated March 2017. The boarding house will be managed by an onsite Manager on a permanent basis and part of the job involves managing on-site waste for Council collection. This includes moving all waste bins from the approved basement bin storage area to a dedicated location at street kerb, near the

driveway area and return when collected. Larger items including furniture will be managed with smaller delivery vehicles, which also eliminates the need for the 4.5m height clearance.

In this regard, the basement is not designed to accommodate heavy vehicles with a height of 4.5m and the head clearance of 2.2m, which accommodates a B99 vehicle, is considered reasonable.

20 - Prior to the issue of a construction certificate, details are to be submitted to the satisfaction of Council demonstrating:

a) a system to be added to the lift with flood smart controls so that if floodwaters have entered the basement, the lift does not descend into the floodwater. The system is to be certified by a suitably qualified engineer as capable of meeting this condition. The system is to be noted on the construction certificate plans and maintained for the life of the development;

b) construction certificate plans and details regarding the flood gates in accordance with the information submitted to Council on 13 December 2017 as follows:

Self Closing Flood Door Stair C5 Layout and Details Drawing No. 2017-FS340-C02	Flooding Solutions Advisory Group	Dated: 21 July 2017
Self Closing Flood Door Details	Flooding Solutions Advisory Group	Undated
SCFB 300 x 3000	Michiel Van den Noort	15 December 2016

Condition 20 requires a floodgate to meet flood planning requirements. The driveway crest was at RL5.45m AHD with a flood gate to provide additional protection to the required level. The proposed modification involves a driveway crest with RL5.65m AHD as an alternative flood management measure, thereby eliminating the need for a floodgate.

Condition 20 also required the northern entry level to be protected with a "Flood Door" since it was set lower than the required level at RL 5.375m AHD. This area has now been raised to RL 5.85m AHD which is higher than the minimum level required and eliminates the need for a flood door.

Given there is a physical crest provided at all entries to the basement, new and revised conditions have been included in the draft Notice of Determination accordingly to ensure the driveway profile, floor levels (including all fire stair entries to the basement) and basement tanking are constructed appropriately, including the following:

- Condition 20A is added to ensure the driveway is constructed appropriately and meets the relevant standards.
- Condition 20B is added to ensure that public domain works are designed and constructed in accordance with relevant requirements and standards.
- Condition 20C is added to provide greater clarity on basement protection requirements and to address potential flooding impacts, ensuring the structural integrity of subsurface structures. It ensures that all subsurface structures are

designed to withstand fluctuations in the water table, uplift pressure, and buoyancy effects, preventing groundwater infiltration. The condition also prohibits the use of pump-out systems to drain or discharge groundwater, ensuring compliance with best practice flood management strategies. By requiring certification from a registered engineer, the condition ensures that the design, construction, and waterproofing of subsurface structures align with industry standards, thereby minimising flood-related risks and protecting the development from potential water ingress.

- Condition 59 is amended to reflect the accurate stormwater system proposed on the site. On-site infiltration system was referenced in error and on-site detention system is proposed instead.
- Condition 70 is amended to further ensure that subsurface structures are designed to prevent ingress of groundwater and to ensure habitable areas and basement are protected from the ingress of floodwaters.

The application was referred to Council's Development Engineer, who did not object to the application, subject to new and amended conditions in the Notice of Determination.

Having regard to both the qualitative and quantitative changes proposed, it is considered the proposed Modification Application remains substantially the same development as that originally approved.

- b) *it has notified the application in accordance with:*
- (i) *the regulations, if the regulations so require, or*
 - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

Comment: The proposal has been notified in accordance with the applicable Development Control Plan.

- c) *it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and*

Comment: The Council made best endeavours to notify each person who made a submission in relation to the relevant development application proposed to be modified, by written notice to the last known address of the submitters.

- d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Comment: The development has been notified in accordance with the DCP, between 17 January 2025 and 3 February 2025. 32 unique submissions have been received.

The issues raised in the submissions are discussed below:

- Safety and security concerns / Child safety risks (proximity to a daycare centre and young families with small kids)
- Insufficient stormwater drainage capacity
- Requirement for electric vehicle and safety issues

- Increased traffic congestion and parking issues
- Construction noises, dusts and safety
- Inappropriate scale and density for the area / Overdevelopment
- Incompatibility with local character and aesthetics of the neighbourhood
- Lack of sustainability for the area's growth
- Concerns about the developer's credibility
- Land use misalignment with community interests
- Noise
- Loss of privacy and amenity
- Loss of green space
- Block natural lighting
- Loss of wind / natural ventilation
- Overshadowing
- Excessive building height
- Potential occupants / Accountability of ongoing management / Social impact
- Loss of property value
- Non-compliance with SEPP, LEP and DCP

The issues listed above are noted and relate to the redevelopment of the site as a boarding house. This modification relates to deletion of two conditions from the operational consent only and Council does not have the authority to re-assess / review the determination made by Land & Environment Court.

The following issues raised relate to the subject modification application and are discussed below:

- Insufficient Community Consultation / insufficient consultation time / Inappropriate timing for submissions (during Christmas holidays)

Comment: The application was lodged on 18 December 2024 and the notification period was from 17 January 2025 to 3 February 2025, which was after the Christmas holidays and was carried out in accordance with Bayside DCP 2022.

- Outdated Approval Process / lapse of consent

Comment: The original application was approved as deferred commencement by NSW Land & Environment Court on 13 April 2018 and the operational consent was granted on 6 April 2020. The application does not lapse until 13 April 2025.

- Flooding

Comment: The subject site is affected by 1% AEP and PMF flood events. The 1% AEP flood level is RL5.15m AHD. The proposed modification involves a driveway crest with RL5.65m AHD as an alternative flood management measure, which complies with the required crest level (1%AEP flood level + 500mm freeboard= RL 5.65m AHD). The application was referred to Council's Development Engineer, who did not object to the application subject to conditions. In this regard, the proposal complies with the relevant minimum flood levels.

- Waste Management

Comment: As has been discussed in the report, the kerbside collection arrangement was approved by NSW Land & Environment Court on 13 April 2018. The proposal relates to deletion of condition 9(h) regarding 4.5m height clearance requirement which was imposed by error and does not involve changes to the approved waste management plan.

S4.56(1A) of the Act (Matters for Consideration and Reasons for the Consent or conditions sought to be varied)

S4.56(1A) of the Act states:

In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application.

Response: An assessment and consideration of matters within Section 4.15(1) of the Act is contained in the following Section of this report.

The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

Response: Consideration has been given to the reasons for the grant of the original consent (being DA-2017/1063) and the proposed modification does not alter or impact the conclusions reached.

S4.15 (1) - Matters for Consideration – General

As outlined in Section 4.56(1A) of the Act above, the provisions of S4.15(1) of the Act must be considered for the Modification Application. This consideration is outlined below.

S4.15 (1)(a)(i) - Provisions of Environmental Planning Instruments

Bayside Local Environmental Plan 2021

The following table outlines the relevant Clauses of Bayside Local Environmental Plan 2021 (“the LEP”) applicable to the proposal, while aspects warranting further discussion follows:

Relevant Clauses	Compliance with Objectives	Compliance with Standard / Provision
2.3 Zone and Zone	Yes - see discussion	Yes - see discussion

Relevant Clauses	Compliance with Objectives	Compliance with Standard / Provision
Objectives - R3 Medium Density zone		
5.21 Flood planning	Yes - see discussion	Yes - see discussion

2.3 – Zone - R3 Medium Density zone

The subject site is zoned R3 Medium Density zone under the LEP.

The application does not change the use of the approved development, which continues to be defined as a boarding house. The proposed modification relates to changes to the height clearance and flood gate only and does not involve changes to the intensity on the site. Therefore, the proposal continues to satisfy the objectives of the zone.

It should also be noted that the approved use was assessed and approved by the Court under the provisions of the previous Affordable Housing SEPP (2009), as a boarding house. Since being approved, a new definition has been introduced under the new SEPP (Housing) 2021, where the approved use would now be defined as co-living housing. Notwithstanding the new definition, the application before the Panel does not seek to alter the approved management arrangements for the use.

5.21 – Flood Planning

Council records indicate that the lot is subject to flooding in 1% AEP and PMF events. The maximum flood level in 100 year was identified as RL5.15m AHD.

The proposed modification involves a driveway crest with RL5.65m AHD as an alternative flood management measure, thereby eliminating the need for a floodgate. Further, the FFL of the northern entry has been raised to RL5.85m AHD, which is higher than the minimum level required and eliminates the need for a flood door to protect the fire door.

The proposal has been designed to adhere to the relevant minimum flood levels and is satisfactory with respect of the provisions of this LEP Clause.

S4.15(1)(a)(ii) - Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority.

There are no draft environmental planning instruments of direct relevance to the proposal.

S4.15 (1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

Bayside Development Control Plan 2022

The application is subject to the Bayside Development Control Plan 2022 (“the DCP”). This is the comprehensive DCP relevant to the proposal. The DCP was adopted by the elected Council on 22 March 2022 and came into effect on 10 April 2023, and supports the provisions of the LEP.

The following table outlines the relevant Clauses of the DCP applicable to the proposal, while aspects warranting further discussion follows:

Relevant Clauses	Compliance with Objectives	Compliance with Standard / Provision
PART 3 – GENERAL DEVELOPMENT PROVISIONS		
3.10 Flood Prone Land	Yes	Yes
3.12 Waste Minimisation and Site Facilities	Yes	Yes

The proposed modification relates to height clearance to the basement level and deletion of the requirement for floodgate only. The proposed modification has been reviewed by Council's Development Engineer and is found to be acceptable.

There are no other changes to the proposal, and the conclusions reached in the parent application remain unchanged. The proposal is therefore acceptable with regards to BDCP 2022.

S4.15(1)(a)(iii) - Provisions any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

There is no planning agreement applicable to the proposal.

S4.15(1)(a)(iv) – Provisions of the Regulation

In terms of provisions of the Regulation, the Modification submission has included sufficient information to enable environmental assessment of the application (Part 5, Division 1 of the Regulation). All relevant provisions of the Regulations have been taken into account in the assessment of this proposal.

S4.15(1)(b) – Likely Impacts of Development

Potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls. Conditions previously imposed will be retained in the Notice of Determination to minimise impacts on neighbours.

S4.15(1)(c) – Suitability of the Site

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the parent application DA-2017/1063. The subject modification does not alter the conclusions previously reached regarding the suitability of the site.

S4.15(1)(d) - Public Submissions

The submissions made, and consideration of matters raised within those submissions, has been previously outlined in response to the relevant subsection in Section 4.56(1A) of the Act.

S4.15(1)(e) - Public interest

The proposal has been assessed against the relevant planning instruments and controls applying to the site, also having regard to the applicable objectives of the controls. As

demonstrated in this assessment of the Modification Application, the proposal is suitable for the site and has acceptable environmental impacts, subject to recommended conditions. Impacts on adjoining properties have been considered and addressed. As such, granting approval to the proposal will be in the public interest, subject to the recommended conditions which help manage and mitigate environmental or potential environmental impacts.

S7.11/S7.12 – Development Contributions

The proposal does not affect required contributions.

Conclusion and Reasons for Decision

The proposed development at 25 Daphne Street, BOTANY NSW 2019, 27 Daphne Street, BOTANY NSW 2019, 29 Daphne Street, BOTANY NSW 2019 has been assessed in accordance with Sections 4.56 and 4.15 of the *Environmental Planning and Assessment Act 1979* including relevant environmental planning instruments and Bayside Development Control Plan 2022.

The proposal is a Modification Application under Section 4.56 of the Act, The Modification proposed seeks to modify Development consent DA-2017/1063, which approved Demolition of the existing industrial/warehouse buildings and associated structures on site, and the construction of a 66 room boarding house and associated structures by the Land and Environment Court on 13 April 2018. The proposed Modifications essentially involve height clearance and floodgate.

In response to the public notification, thirty-two (32) unique submissions were received. The matters raised in these submissions have been discussed and addressed in this report and in this instance do not warrant refusal of the proposal.

The proposal is supported for the following main reasons:

- The proposal remains substantially the same development as originally approved;
- The proposal, subject to conditions, is consistent with the objectives of the R3 Medium Density zone and the relevant objectives of Bayside Local Environmental Plan 2021.
- The proposal is generally consistent with the objectives and controls of Bayside Development Control Plan 2022.
- The proposal will not result in any significant impact on the environment or the amenity of nearby residents.
- The issues raised by objectors have been considered and where appropriate, addressed via amendments to plans or conditions or consent.
- Recommended conditions of consent appropriately mitigate and manage potential environmental impacts of the proposal.

Schedule 1 – Draft Conditions of Consent

Refer to draft conditions attached separately.

GENERAL CONDITIONS

- The development is to be carried out in accordance with the plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent.

Drawing No.	Author	Dated
A001 Cover Page Rev E	McGregor Westlake Architecture	Dated: 19 December 2017 Received by Council: 20 December 2017
A010 Site Analysis Plan Rev H		
A020 Demolition Plan Rev E		
A050 Site Plan Rev E		
A100 Basement Floor Plan Rev 05	McNally Architects & I & D Studio	11 November 2024
A101 Ground Floor Plan Rev 06	McNally Architects & I & D Studio	11 November 2024
A102 First Floor Plan Rev O	McGregor Westlake Architecture	Dated: 19 December 2017 Received by Council: 20 December 2017
A103 Second Floor Plan Rev M		
A104 Third Floor Plan Rev J		
A105 Roof Plan Rev K		
A201 Sections Rev O		
A300 Sections Rev 04	McNally Architects & I & D Studio	11 November 2024
A250 Driveway Profile Rev D	McGregor Westlake Architecture	Dated: 19 December 2017 Received by Council: 20 December 2017
A301 Elevations Rev K		
A302 Elevations Rev J		
A350 Materials and Finishes Rev E		
Landscape Plan 17-1264/1 Rev A	Captivate Landscape Design	

Reference Document	Author	Dated
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Plan of Management Plan	Parker Logan Property	Dated: 10 April 2017 Received by Council: 27 April 2017
Waste Management Plan		Dated: Undated Received by Council: 27 April 2017
Geotechnical Investigation	Aargus Pty Ltd	Dated: 23 March 2017 Received by Council: 27 April 2017
Detailed Site Investigation		Dated: 2 February 2018 Received by Council: 6 February 2018
Stormwater Management Plans H-01, H-02, H-03, H-04, H-05, H-06, H-07, H-08, All Rev C	Gahce Hydraulic Consultant	Dated: 13 December 2017 Received by Council: 13 December 2017
BCA Compliance Report	Vic Lili & Partners Consulting	Dated: 28 March 2017 Received by Council: 27 April 2017
Access Compliance Report Rev B	Vista Access Architectures Pty Ltd	Dated: 12 April 2017 Received by Council: 27 April 2017
Fire Engineering Letter	Red Fire Engineers	Dated: 14 March 2017 Received by Council: 27 April 2017
Electricity Network Connection Application	Ausgrid	Dated: 27 March 2017 Received by Council: 27 April 2017
Acoustic Assessment	BGMA Pty Ltd	Dated: March 2017 Received by Council: 27 April 2017
Construction Traffic Management Plan	Hemanote Consultants	Dated: March 2017 Received by Council: 27 April 2017
Traffic and Parking Impact Assessment		
Construction Management Plan		Dated: April 2017 Received by Council: 27 April 2017

[MDA-2024/198 – Section 4.56 – modified on 11 Mar 2025]

2. The development is to be carried out in accordance with the documents submitted and approved by Council in deferred commencement condition A1.
3. This Consent relates to land in Lot 1-3 in DP 227578 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
4. All building work must be carried out in accordance with the provisions of the Building Code of Australia
5. The consent given does not imply that works can commence until such time that:
 - a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
 - i) The consent authority; or
 - ii) An accredited certifier; and
 - b) The person having the benefit of the development consent:
 - i) Has appointed a principal certifying authority; and
 - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and
 - iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

6. The following condition imposed by **Sydney Airport** is as follows:
 - a) The development has a maximum height of 18.5 metres AHD. The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc. Should you wish to exceed this height a new application must be submitted. Should the height of any temporary structure and/or equipment be greater than 15.24 metres AEGH, a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.
7. The following conditions imposed by **Water NSW** are as follows:
 - a) A Water Supply Work Approval from WaterNSW must be obtained prior to commencing dewatering activity on the proposed site. Please complete an Application for approval for water supply works, and/or water use.
 - b) An application for a Water Supply Works Approval will only be accepted upon receipt of supporting documentation, and payment of the applicable fee (see Application fees for New or amended Works and/or Use Approvals). The

information required for the processing of the water supply work application may include preparation of a dewatering management plan. Please refer to checklist attached.

- c) If approved, the Approval will be issued for a period of up to 24 months to cover the dewatering requirements during the construction phase. It will include conditions to ensure that impacts are acceptable and that adequate monitoring and reporting procedures are carried out. The Approval will be issued subject to the proponent meeting requirements of other agencies and consent authorities. For example, an authorisation by either Sydney Water or the local Council, depending where the water will be discharged. If contaminants are likely, or are found to be present in groundwater, and are being discharged to stormwater, including high salinities, a discharge licence under the *Protection of the Environment Operations Act 1997 (NSW)* may also be required.
 - d) WaterNSW prefers “tanking” (ie. total water proofing below the seasonal high water table) of basement excavations, and avoids the ongoing extraction of groundwater after the initial construction phase. It is also advised to adopt measures to facilitate movement of groundwater post construction (eg. a drainage blanket behind the water-proof membrane).
 - e) If the basement is not “tanked”, the proponent will require a Water Access Licence (WAL) and need to acquire groundwater entitlements equivalent to the yearly ongoing take of groundwater. Please note: Acquiring groundwater entitlements could be difficult, and may cause delay in project completion. If a WAL is required, please complete an Application for a new water access licence with a zero share component.
8. The following condition imposed by the **Sydney Water** is as follows:
- a) The approved plans must be submitted to the Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF CONSTRUCTION CERTIFICATE

9. Prior to the issue of any Construction Certificate, detail design and construction plans in relation to the habitable areas shall be submitted to Council for approval. The plans shall incorporate but not limited to:
- a) The floor level of the habitable areas of the building shall be at least RL 5.85 metres AHD;
 - b) The floor level of the basement level shall be at least RL 2.65 metres AHD;
 - c) The minimum size of double room is 16m², excluding any area used for the purpose of private kitchen or bathroom facilities. Dimensions of bathroom, kitchen and wardrobe in the rooms are to be provided;
 - d) Details of basement excavation and footing shall be provided;

- e) Details of the materials of retractable blinds on the street elevation shall be provided;
- f) Details of facilities and the communal living area internal layout shall be provided;
- g) Details of opening/void and stormwater management of the roof atrium shall be provided;
- h) Deleted**

[MDA-2024/198 – Section 4.56 – modified on 11 Mar 2025]

10. Prior to the issue of the Construction Certificate, the Plan of Management is to be amended to include:
- a) Outdoor Communal area can only be used between 7:30am to 10.00pm daily;
 - b) No parties are to be held on site at any time;
 - c) Loading and unloading is to be carried out from within the site and is to be restricted to daylight hours;
 - d) Details relating to residential lease agreement and reference check process, visitor staying overnight, minimum period of tenancy for boarders, and after hours use of access keys;
 - e) Provision for a Complaints Register to be provided in an electronic form (i.e. dedicated email address) providing the boarding house manager's number to adjoining residents in the case of a complaint;
 - f) The method by which the incoming tenants will be made aware of the Plan of Management and House Rules together with a requirement that the tenants abide by the Plan of Management and House Rules;
 - g) The draft operational House Rules are to be submitted to Council for approval prior to the issue of the Construction Certificate. Should the Rules provide a guideline for the occupants of the boarding house as to what is considered to be acceptable behaviour, e.g. controlling of loud amplified music, noise, visiting times, and the general cleanliness of rooms and common areas;
 - h) An Operational Plan of Management is to be submitted to Council for approval prior to the issue of the Construction Certificate to ensure that the proposed premises operates in a manner that maintains a high level of amenity. This plan should correctly reference the maximum number of occupants and the Development Application number; and
 - i) Prior to the issue of the Construction Certificate for the building, an Emergency Management and Evacuation Plan must be prepared for the building and approved by a suitably qualified person. The staff shall be trained in relation to the operation of the approved Emergency Management and Evacuation Plan.

11. Prior to the issue of any Construction Certificate, changes to the Landscape Plan 17-1264/1 Rev A prepared by Captivate Landscape Design dated 22 March 2017 shall be submitted to Council for approval. The plan shall incorporate but not be limited to:
 - a) Efficacy of screening to the boundaries;
 - b) Proposed trees to be removed;
 - c) Provision of green walls;
 - d) Full annotation of planting character, i.e. height form character width; and
 - e) Clarity of the design intent for the internal landscape.
 - f) Landscaping to correspond with the approved plans in condition 1.
12. Prior to the issue of the Construction Certificate the applicant must pay the following fees:
 - a) Damage Deposit \$15,431.77 (See Condition below);
 - b) Development Control \$3,000.00;
 - c) Section 94 Contributions \$409,131.55 (See Condition below);
 - d) Street Tree Planting Fee \$650.00 (See Condition 64).
13. Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of \$15,431.77 (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
14. The payment of the following monetary contributions in accordance with Council's Section 94 Contributions Plan 2016. This result is a total contribution of **\$409,131.55**, to be paid to Council prior to the issue of the Construction Certificate.

Note: The Section 94 Contributions are subject to quarterly review and the current rates are applicable for the quarter year in which your consent is granted. If you pay the contribution in a later quarter you will be required to pay the indexed contribution applicable at the time.
15. Prior to the issue of the Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.
16. Prior to the issue of the Construction Certificate, the applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram for, and adjacent to, the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. Any damage to utilities/services will be repaired at the applicant's expense.

Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicants expense

17. Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, a full photographic survey showing the existing conditions of Council's infrastructure shall be submitted to Council and the Principal Certifying Authority.

The survey shall detail the physical conditions and identify any existing damages to the road, kerb, gutter, footpath, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 20m from the development. Failure to do so will result in the applicant being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.

18. Prior to the issue of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Principal Certifying Authority, showing the storage location of construction building materials and plants and the method of access to the property. No storage of construction materials and plants to be allowed in road reserve area.

19. Prior to the issue of any Construction Certificate, written satisfaction is to be obtained from Council engineers confirming compliance of the construction certificate plans with *Council's Development Control Plan 'Stormwater Management Technical Guidelines'*, *AS/NSZ 3500 – Plumbing and Drainage Code* and the *BCA*. All drawings shall correspond with the approved architectural plans.

The plans shall incorporate but not be limited to:

- a) The provisions made in the Stormwater Concept Plans for On Site Detention System by Gahce Hydraulic Consultant Revision C Drawing Nos. H01 - H08, dated 13 December 2017 and designed to retain all 1 in 100 year storm events and satisfying all relevant Council and Australian Standards;
- b) the basement to be tanked to PMF level of 5.75 m AHD such that external groundwater cannot enter the basement; and
- c) The design of the proposed On Site Detention system is to comply with *Chapter 6. On-Site Detention (OSD) Systems* of Council's *Stormwater Management Technical Guidelines* which forms part of the Botany Bay DCP 2013. This includes the sizing and location of the tank and all associated pit and pipework.

20. DELETED

[MDA-2024/198 – Section 4.56 – modified on 11 Mar 2025]

- 20A *Prior to the issue of the construction certificate for works above ground, a longitudinal driveway profile prepared by a suitably qualified civil engineer shall be submitted to the Bayside Council director of City Futures for approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with AS/NZS2890.1:2004. The profile shall include all relevant levels, grades (%), headroom clearances and lengths. The existing boundary levels shall be clearly***

shown on the profile. Any change to the existing boundary levels requires approval from Bayside Council. A crest level of RL 5.65m AHD must be provided on the driveway internally within the property. A ground clearance test shall be undertaken for a B99 vehicle demonstrating sufficient ground clearance is provided on the entire driveway.

REASON

To ensure that the development meets the relevant standards and to reduce impacts to on-street parking.

- 20B Prior to the issue of the construction certificate for works above ground, an application for Frontage Works (Public Domain Construction – Frontage / Civil Works Application) shall be made to Bayside Council's Customer Service Centre for assessment of all required works within the road reserve. A fee is payable to Bayside Council in accordance with Council's adopted fees and charges.**

REASON

To ensure that public domain works are designed and constructed in accordance with relevant requirements and standards.

- 20C Prior to the issue of any Construction Certificate, all subsurface structures shall be designed with a waterproof retention system (i.e., full structural tanking and waterproofing) with adequate provision for future fluctuation of the water table. The subsurface structure is required to be designed with consideration of uplift due to water pressure and "flotation" (buoyancy) effects. If subsoil drainage is permitted to be provided around the subsurface structure, the subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure but must not be connected to the internal drainage system. No groundwater is permitted to enter the subsurface structures and, no pump-out system is permitted to be used to drain and discharge groundwater from the subsurface structures. The design of subsurface structure, tanking, waterproofing and subsoil drainage shall be undertaken and certified by Engineer(s) registered with the National Engineering Register (NER). Design details, construction specifications and engineering design certification shall be included in the documentation accompanying the Construction Certificate.**

REASON

To ensure that subsurface structures are designed to prevent ingress of groundwater.

[MDA-2024/198 – Section 4.56 – added on 11 Mar 2025]

- 21. The building shall be constructed in accordance with AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction, the details of which must be prepared by a practicing professional acoustical consultant. The report shall be submitted to Principal certifying authority prior to the release of the Construction Certificate and the building plans endorsed with the required acoustical measures.**

The measures required shall be undertaken in accordance with the provisions of AS 2021 – 2000: Acoustics - Aircraft Noise Intrusion - Building Siting and Construction to

establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021 – 2000 shall be incorporated into the construction of the building.

The work detailed in the report includes:

- a) Appropriate acoustic glazing to stated windows and doors;
- b) Detailed roof and ceiling construction;
- c) Wall and ceiling corner details;
- d) External door specification; and
- e) Acoustically treated mechanical ventilation.

Note: In many cases the applicant chooses to install air conditioning to meet mechanical ventilation requirements above. If they do it will require consideration of the noise from the air conditioner (advice concerning noise from air conditioners is attached below).

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY DEVELOPMENT OR WORK

22. The Principal Certifying Authority must be satisfied that:
- a) In the case of work to be done by a licensee under the Home Building Act:
 - i) Has been informed in writing of the licensee name and contractor licence number; and
 - ii) Is satisfied that the licensee has complied with the requirements of Part 6 of the Home Building Act 1989; or
 - b) In the case of work to be done by any other person:
 - i) Has been informed in writing of the persons name and owner-builder permit number; or
 - ii) Has been given a declaration signed by the owner of the land that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner builder work* in Section 29 the Home Building Act 1989.
23. Prior to the commencement of works, the applicant must inform Council, in writing, of:
- a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
 - b) The name and permit number of the owner-builder who intends to do the work;
 - c) The Council also must be informed if:

- i) A contract is entered into for the work to be done by a different licensee; or
 - ii) Arrangements for the doing of the work are otherwise changed.
24. The site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
25. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
26. Erosion and sediment control devices shall be installed prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into Council's stormwater system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the requirements of the Protection of Environment Operations Act 1997 and the Department of Environment, Climate Change and Water guidelines. These device shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
27. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter for the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993 as appropriate:

(It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)

- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve;
- b) Permit to construction works, place and/or storage building materials on footpaths, nature strips;
- c) Permit for roads and footways occupancy (long term/ short term);
- d) Permit to construct vehicular crossings, footpath, kerb and gutter over road reserve;
- e) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever;
- f) Permit to place skip/waste bin on footpath and/or nature strip;
- g) Permit to use any part of Council's road reserve or other Council lands;

28. In order to ensure that three existing street trees in the nature strip fronting the property is retained and protected during construction, and its health and structural stability ensured, the following is required:
- a) A Consultant Arborist AQF Level 5 shall be engaged from site establishment to the post-construction period to erect tree protection zones and signage, inspect and advise on all works during the entire construction period, monitor tree health and to authorize and undertake tree canopy and root pruning where necessary only and to the minimum only so that the health or structural stability of the trees is not impacted.
 - b) Tree to be retained is to be tagged with clearly visible marking tape at a height of approx. 2 metres from ground.
 - c) Prior to commencing demolition/any works the tree/s is/are to be physically protected by fencing underneath the canopy dripline using 1.8 metre high chainwire fence to form the Tree Protection Zone (TPZ). The area within the fencing is to be mulched with leaf mulch to a depth of 100mm and a weekly deep watering program undertaken during construction. The fence shall remain in place until construction is complete.
 - d) If there is insufficient space to erect fencing in a particular area, wrap the trunk with hessian or carpet underlay to a height of 2.5 metres or to the tree's first lateral branch, whichever is greater, and affix timber palings around the tree with strapping or wire (not nails).
 - e) Before any works commence on site, the Applicant is required to contact Council for an inspection and/or provide photographic evidence of the fenced TPZ's. Council approval is required prior commencement of any work.
 - f) All detailed Construction Certificate plans shall show trees to be protected and the TPZ.
 - g) The TPZ's are "No-Go" zones. There shall be no access to the property excluding the existing crossover, no stockpiling, storage or sorting of waste or building materials, no construction work, no concrete mixing, strictly no washing down of concrete mixers or tools, no chemicals mixed/disposed of, no excavation or filling, no service trenching. Any unavoidable work within the fenced zone shall be under the direction of Council's Tree Officer or Consultant Arborist.
 - h) Where unavoidable foot access is required in the TPZ, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage.
 - i) Excavation within the TPZ and within a nominated radial dimension from the tree trunk as determined by the consultant Arborist in accordance with AS 4970 : 2009 – Protection of Trees on Development Sites shall be carried out manually using hand tools or light machinery to minimise root damage or disturbance.
 - j) No tree roots greater than 30mm in diameter shall be pruned without further assessment by Council's Tree Officer and the consulting Arborist and only following the submission of further Arborists reports to Council so as not to unduly impact or stress the tree.

- k) Ensure no damage to the canopy, trunk or root system (including the surrounding soil) of any tree to be retained. There shall be no canopy pruning unless approval has been granted by Council's Tree Officer under application from the consultant Arborist. Approved pruning shall be undertaken by a qualified Arborist in accordance with AS 4373.
- l) For retained trees on the private property adjoining, the developer is required to consult with Council and advise prior to any tree works taking place.
- m) Care shall be taken with construction work in the primary root zone of all existing neighbouring trees to be retained. Trees must be retained and construction works are to accommodate tree roots, branches and canopy without damage or impact. Trees are not to be pruned back to the boundary fence line under any circumstances. The canopy may otherwise overhang the property.
- n) The Applicant will be required to undertake any tree maintenance or remedial pruning works required by Council or the Consultant Arborist at the completion of construction.

If there is any contravention of these tree preservation conditions, or a tree was found to be damaged (including roots), in decline, dead or pruned without permission, then Council may claim all or part of the lodged security bond prior to its release as well as require remedial pruning work. Epicormic growth is evidence of root damage.

29. Dewatering – Water Quality Requirements

For any water from site dewatering to be permitted to go to the stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory.

All laboratory results must be accompanied by a report prepared by a suitably qualified person indicating the water meets these guidelines and is acceptable to be released into council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report.

Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.

30. Dewatering - Permit to Discharge to Stormwater

To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to council's stormwater system a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.

DURING WORKS

31. The proposed development shall comply with the following:
- a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - i) Stating that unauthorised entry to the work site is prohibited;
 - ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - iii) The Development Approval number; and
 - iv) The name of the Principal Certifying Authority including an after hours contact telephone number.
 - b) Any such sign is to be removed when the work has been completed.
32. Vibration levels induced by the demolition activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.
33. Prior to the commencement of demolition work a licensed demolisher who is registered with WorkCover NSW must prepared a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy shall be sent to Council (if it is not the PCA). A copy of the Statement shall also be submitted to WorkCover NSW.

The statement must be in compliance with AS2601:1991 – ‘Demolition of Structures’, the requirements of WorkCover NSW and conditions of the Development Approval, and shall include provisions for:

- a) Enclosing and making the site safe, any temporary protective structures must comply with the “Guidelines for Temporary Protective Structures (April 2001)”;
- b) Induction training for on-site personnel;
- c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
- d) Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;
- e) Disconnection of Gas and Electrical Supply;
- f) Fire Fighting – Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;
- g) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
- h) Waterproofing of any exposed surfaces of adjoining buildings;
- i) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the “Protection of the Environmental Operations Act 1997”;

- j) Working hours, in accordance with this Development Consent;
 - k) Confinement of demolished materials in transit;
 - l) Proposed truck routes, in accordance with this Development Consent;
 - m) Location and method of waste disposal and recycling in accordance with the "Waste Minimisation and Management Act 1995".
 - n) Sewer – common sewerage system.
34. Precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, including but not limited to:
- a) Protection of site workers and the general public;
 - b) Erection of hoardings where appropriate;
 - c) Asbestos handling and disposal where applicable;
 - d) Any disused service connections shall be capped off;
 - e) The disposal of refuse is to be to an approved waste disposal depot.
35. Hazardous or Special Wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the Department of Environment, Climate Change and Water and with the provisions of the:
- a) Occupational Health and Safety Act, 2000;
 - b) Occupational Health and Safety Regulation 2001;
 - c) Protection Of the Environment Operations Act 1997 (NSW); and
 - d) NSW Department of Environment and Climate Change Waste Classification Guidelines (2008).
36. Any material containing asbestos found on site during the demolition process the shall be removed and disposed of in accordance with:
- a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos;
 - b) Protection of the Environment Operations Act 1997;
 - c) Protection of the Environment Operation (Waste) Regulation;
 - d) DECC Waste Classification Guidelines 2014; and
 - e) No demolition materials shall be burnt or buried on the site.
37. The demolition and disposal of materials incorporating lead such as lead paint and dust shall be conducted in accordance with:
- a) AS2601-2001 - Demolition of structure; and

- b) AS4361.2-1998 – Guide to Lead Paint Management-Residential and Commercial Buildings

38.

- a) To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
 - i) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services;
 - ii) Negotiate with the utility authorities (eg Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with:
 - 1 The additional load on the system; and
 - 2 The relocation and/or adjustment of the services affected by the construction.
- b) Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.

39. Should the demolition process require a building waste container(s) (builders' skip), then such container must not be placed or left upon the public road, footpath, reserve or the like without the prior approval of the Council. The use of any part of Council's road reserve must also have prior approval of Council.

40. Throughout the construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A copy of the sign is available from Council's Customer Service Counter.

41. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site.

42. The following shall be complied with during construction and demolition:

- a) Construction Noise

Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Interim Construction Noise Guidelines and the Protection of the Environment Operations Act 1997.

- b) Level Restrictions

- i) Construction period of 4 weeks and under:

The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).

- ii) Construction period greater than 4 weeks and not exceeding 26 weeks:

The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
 - c) Time Restrictions
 - i) Monday to Friday 7:00am to 05:00pm
 - ii) Saturday 8:00am to 01:00pm
 - iii) No Construction to take place on Sundays or Public Holidays.
 - d) Silencing

All possible steps should be taken to silence construction site equipment.
43. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
- a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
 - b) Each toilet provided:
 - i) must be standard flushing toilet; and
 - ii) must be connected:
 - 1 to a public sewer; or
 - 2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or
 - 3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
 - c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
44. The applicant shall conduct all construction and related deliveries wholly on site. If any use of Council's road reserve is required then separate applications are to be made at Council's Customer Services Department.
- 45.
- a) In order to prevent vehicles tracking soil or other materials onto public roads and washing of materials into the street drainage system or watercourse, during excavation, construction and deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion;

- b) In addition, concrete trucks and any other trucks that used for the transportation of building materials or similar, shall not traffic soil cement or other materials onto the road reserve. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land;
 - c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition;
 - d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer; and
 - e) Building operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on public roadways or footways or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
46. During demolition, excavation and construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of construction. The area fronting the site and in the vicinity of the development shall also be safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
47. During construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.
48. Inspections must be conducted by Council's Engineer at the following occasions:
- a) Formwork inspection of driveway layback and adjacent kerb and gutter prior to laying of concrete;
 - b) Formwork inspection of Council's kerb and gutter prior to laying of concrete;
 - c) Formwork inspection of Council's footpath prior to laying of concrete;
 - d) Final inspection of driveway layback and adjacent kerb and gutter;
 - e) Final inspection of Council's kerb and gutter;
 - f) Final inspection of Council's footpath.
- 49. Additional information – Contamination – Cease work addition**

Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately. All work on site shall cease until the council is notified and appropriate measures to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines is completed by an appropriately qualified and experienced environmental consultant.

50. Remediation Works - General

All remediation work must be carried out in accordance with:

- a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
- b) NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997;
- c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land; and
- d) The Remedial Action Plan (RAP) required to be submitted prior to the issue of the Development Consent.

51. Dewatering Water Quality Requirements

For any water from site dewatering to be permitted to go to the stormwater system, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report. Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.

52. Dewatering - Permit to Discharge to Stormwater

To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to council's stormwater system a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.

53. Waste Classification - Excavated Materials

All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site.

54. Importation of Fill (General)

To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:

- a) Office of Environment and Heritage (OEH) approved guidelines; and
- b) Protection of the Environment Operations Act 1997; and
- c) Protection of the Environment Operations (Waste) Regulation 2014.

All imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

55. Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109N of the Environmental Planning and Assessment Act, 1979.
56. Prior to the issue of any Occupation Certificate, all applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.
57. Prior to the issue of any Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and accepted practice.
58. Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to the issue of any occupation certificate for the development and release of damage deposit.
59. ***Prior to the issue of any Occupation Certificate(s), a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:***

a) On-Site Detention System

b) Stormwater Quality Improvement Device

A works-as-executed (WAE) drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. The WAE plan must clearly illustrate the surveyed dimensions and details of all drainage aspects.

REASON

To ensure that the stormwater system is constructed as approved and in accordance with relevant standards.

[MDA-2024/198 – Section 4.56 – modified on 11 Mar 2025]

60. Prior to the issue of any Occupation Certificate, inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.
61. Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works:

- a) On Daphne Street, adjacent to development, reconstruct the existing footpath for the full length of the proposed new properties in accordance with Council Infrastructure Specifications; and
 - b) On Daphne Street, adjacent to development, reconstruct the existing kerb and gutter for the full length of the proposed new properties in accordance with Council Infrastructure Specifications.
62. The Council nature strip in Daphne Street shall be repaired and/or replaced and maintained in accordance with Council Specification at the completion of all construction work at the Applicant's expense prior to the issue of any occupation certificate.
63. Prior to the issue of the Occupation Certificate, one (1) new street tree shall be installed in the nature strip by Council at the Applicant's expense. The Applicant must make a payment to Council of \$650 for the purchasing and installation of the new street tree (species required being *Harpullia pendula*), and its establishment costs, prior to the issue of the Construction Certificate:
- (a) Supply, install & 3 month maintenance - \$650 (200L)
- The new street tree will be planted by Council once construction work is complete, including any driveway crossovers. It is the Applicant's responsibility to notify Council when construction is complete and the new street tree may be planted without risk of damage.
64. Prior to the issue of the Occupation Certificate, one (1) new street tree shall be planted by Council in Daphne Street, the species required being *Harpullia pendula*.
65. An application shall be made to Council for the registration of the boarding house prior to the release of any Occupation Certificate.
66. Prior to the issue of any Occupation Certificate, a report prepared by a qualified air quality/mechanical engineer certifying that the mechanical ventilation/exhaust system as installed complies in all respects with the design and operation standards of AS 1668 – Mechanical Ventilation and Air Conditioning Codes, and the relevant provisions of the Protection of the Environment Operations Act 1997 shall be submitted to Council within 21 days of the installation of the system and prior to the occupation of the premises.
67. Prior to release of any Occupation Certificate, the developer must submit to the Principal Certification Authority an acoustic report to verify that the measures stated in the acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
68. **Contaminated Land - Site Validation Report**
- A Stage 4 – Site Validation Report (SVR) shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:
- a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';

- b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
- c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

The site validation report shall provide a notice of completion of remediation works, whether there are any ongoing site management requirements and a clear statement on the suitability of the likely proposed site use. The report shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority). The report is to be submitted after completion of remediation works and prior to the issue of any occupation certificate.

69. Site Audit Statement - Site Suitability

To ensure that the site is suitable for the proposed use, a Site Audit Statement (SAS) completed by an accredited site auditor under the Contaminated Land Management Act 1997 shall be submitted to Council clearly demonstrating that the site is suitable for the proposed development. The site audit statement is to certify that the relevant requirements of the Remediation Action Plan approved under Deferred Commencement Condition A1 have been carried out. This shall be provided prior to the release of any Occupation Certificate.

Any conditions imposed on the SAS shall form part of this consent. The accredited site auditor shall provide Council with a copy of the Site Audit Report (SAR) and Site Audit Statement (SAS) prior to the issuing of any Occupation Certificate. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, a Section 96 application pursuant to the Environmental Planning & Assessment Act 1979 shall be submitted to ensure that they form part of the consent conditions.

70. Certification of tanking of basement

- A) *Prior to the issue of any Occupation Certificate, an Engineer registered with the National Engineering Register (NER) shall certify that the tanking and waterproofing of all subsurface structures has been constructed in accordance with the approved design and specification. The certification is to include an inspection and evaluation of the works.***
- B) *Prior to the issue of any Occupation Certificate, a certificate from a registered surveyor shall be provided to the Principal Certifier, certifying that the habitable floor levels and all fire stair entry levels to the basement are constructed a minimum of 500 mm above the 1% Annual Exceedance Probability (AEP) Flood Level and that the basement is physically protected via a crest to a minimum of 500 mm above the 1% Annual Exceedance Probability (AEP) Flood Level. It must be confirmed that there are no other openings into the basement set below the 1% AEP flood level + 500mm freeboard level (RL 5.65m AHD).***

REASON

To ensure that subsurface structures are designed to prevent ingress of groundwater and to ensure habitable areas and basement are protected from the ingress of floodwaters.

[MDA-2024/198 – Section 4.56 – modified on 11 Mar 2025]

CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE

71. Ongoing maintenance of the road verge, footpath and nature strip shall be undertaken by the owner/body corporate/Strata Corporation. Maintenance includes mowing, watering and maintaining the landscaping in these areas at all times. Maintenance does not include pruning, trimming, shaping or any work to street trees at any time.
72. The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
73. All intruder alarms shall be fitted with a timing device in accordance with the requirements of *Regulation 12A of the Noise Control Act, 1975*, and *AS2201, Parts 1 and 2 - 1978 Intruder alarm systems*.
74. A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - a) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
 - b) Before 7 am or after 10 pm on any other day.
75. The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).

The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.

The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.

For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
76.
 - a) A copy of the annual fire safety statement and current fire safety schedule for the premises must be prominently displayed in the reception area of the boarding house; and

- b) A floor plan must be permanently fixed to the inside of the door of each sleeping room to indicate the available emergency egress routes from the respective sleeping room.
77. The use of the external communal open space or common areas shall be restricted between 7.30am to 10.00pm, seven days a week.
78. A maximum of sixty six (66) double occupancy rooms including one (1) room allocated to the boarding house manager are to be provided and that a maximum of 132 people are to be accommodated in the boarding house in anyone time.
79. The building is approved as a boarding house for use and occupation by lodgers only. It shall not be used for other residential accommodation.
80. The operation of the premises shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration or odour.
81. Nineteen (19) off-street car parking bay, Fifteen (15) off-street motorcycle parking bay and twenty two (22) off-street bicycle parking shall be provided on-site in accordance with the approved plans. All parking areas shown on the approved architectural plans shall be set aside for parking purpose only and shall not be used for storage of goods or machinery.
82. All waste and recycling containers shall be stored in a designated waste storage area. The waste containers shall not be over filled and the lids kept closed at all times except when material is being put in them. The owner/ live-in caretaker shall be responsible for the following:
- a) Where waste and recycling containers need to be moved to the street;
 - b) Movement of the waste and recycling containers to the footpath for collections, and the return of waste and recycling containers to the waste storage area;
 - c) Refuse containers are to be returned to the waste storage area on the same day as the refuse is collected;
 - d) Refuse containers are not to be left on the street for longer than 24 hours;
 - e) Cleaning and maintaining the waste storage area, any drainage installations and waste collection containers; and
 - f) Providing and maintaining signage and information to uses to encourage recycling.
- 83.
- a) Before entering a lease/occupancy agreement, all tenants and occupiers of the development are to be advised by the owner of the building that residents are not eligible to participate in on-street resident parking schemes;
 - b) Prior to the issue of any Occupation Certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as on a notice board in the

communal room, where it can easily be observed and read by persons entering the building.

84. The premises shall be used with a minimum of 3 months stay in the boarding house rooms.